

ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING, AND VERIFYING



PLEADINGS AND PAPERS
BY ELECTRONIC MEANS

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Preface

Beginning on February 9, 2004, the United States District Court for the Western District of Virginia will begin using a new case management system that will also permit attorneys and other subscribers to the courts' Public Access to Court Electronic Records ("PACER") system to electronically access most unsealed civil case documents¹ via the Internet twenty-four hours a day. Registered filing users will also be able to file case documents electronically from their own computer beginning in March 2004.

The new system, known as the Case Management/Electronic Case Files system or **CM/ECF**, was developed by the Federal Judiciary to replace outdated case management systems in more than 200 federal courts nationwide. **CM/ECF** will provide our court with updated and enhanced case management tools, the capability to store court documents in electronic format and the ability to accept electronic filings. This system is currently available in a majority of bankruptcy courts and a growing number of district courts. This technological advance will move the Federal Judiciary toward a paperless environment.

The implementation of **CM/ECF** does not change the court's current practices concerning filing or access to case documents, however. It simply changes the manner in which case filings are received and stored from the traditional paper environment to an electronic format. If a document or pleading was filed prior to implementing **CM/ECF**, it will still be filed using the new system. Similarly, although not all records will be accessible remotely via the Internet, all records currently available for viewing by the public will continue to be accessible at the clerk's office.

The **CM/ECF** system is easy to use - filers prepare a document using conventional word processing software, then convert it to .pdf format. After logging onto the court's web site with a court-issued password, the filer fills out several screens with information that serves as the basis for the docket entry, attaches the document and submits it to the court. A notice verifying court receipt is generated and sent by e-mail to the filer automatically. Other parties in the case also receive email notification of action in the case. Also, there are no added fees for filing documents over the Internet using **CM/ECF**; existing document filing fees still apply. Litigants will receive one free copy of documents filed electronically in their cases; additional copies are available to attorneys and the general public via PACER for viewing or downloading at seven cents per page.

The Court and Clerk's Office are committed to making the transition to this new system as convenient and easy to use as possible. As you begin using **CM/ECF**, your input as to how we may improve our procedures is important to us. If you have any comments or suggestions, please e-mail them to: ecf@vawd.uscourts.gov.

Samuel Grayson Wilson
Chief United States District Judge

John F. Corcoran
Clerk of Court

¹ Attorneys of record in criminal cases also will have remote electronic access to unsealed case documents in their cases. The Judicial Conference of the United States has approved remote electronic access by all PACER subscribers to unsealed criminal case documents, and is currently adopting implementation guidelines for the courts. We anticipate that remote access to criminal case documents by non-parties will be available in the near future.

**ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING,
AND VERIFYING PLEADINGS AND PAPERS BY ELECTRONIC MEANS**

A. DEFINITIONS

1. “**Documents**” are all pleadings, memoranda, briefs, exhibits, orders, transcripts of depositions actually used in support of motions or at trial, transcripts of proceedings required to be filed, and other writings filed in the court’s case file by the parties or the court.
2. “**Electronic Filing**” is the process of uploading a document from the filing user’s computer, using the court’s Internet-based Case Management/Electronic Case Files (CM/ECF) system to file the document in the court’s case file. The CM/ECF system only accepts documents in a portable document format (.pdf). Although there are two types of .pdf documents – electronically converted .pdfs and scanned imaged, only electronically converted .pdfs may be filed with the court using the CM/ECF System, unless otherwise authorized by local rule or order. Sending a document or pleading to the court via e-mail does not constitute “electronic filing.”
3. “**Filing User**” is an individual who has a court-issued login and password to file documents electronically.
4. “**Notice of Electronic Filing**” is a notice automatically generated by the CM/ECF system at the time a document is filed with the system, setting forth the time of filing, the name of the party and attorney filing the document, the type of document, the text of the docket entry, the name of the party and/or attorney receiving the notice, and electronic links (hyperlinks) to the filed document and the docket report.
5. “**PACER**” (Public Access to Court Electronic Records) is an automated system that allows an individual to view, print and download court docket information and remotely accessible case records over the Internet.
6. “**.pdf**” refers to Portable Document Format. There are two types of .pdf documents:

ELECTRONICALLY CONVERTED .pdf documents, which are created from word processing documents (MS Word, WordPerfect, etc.) using Adobe Acrobat or similar software and,

SCANNED IMAGE .pdf documents, which are produced using an optical scanner.

Electronically converted .pdf documents are text searchable and their file size is small. Scanned image .pdf documents are created from paper documents that have been run through an optical scanner. Scanned image .pdfs are not searchable and have a large file size.

B. GENERAL INFORMATION

1. **Effective February 9, 2004, all documents submitted for filing in this district in criminal and civil cases, no matter when a case was originally filed, will be filed electronically** using the Case Management/Electronic Case Filing System (“CM/ECF”) or will be scanned² and uploaded to the CM/ECF system, unless otherwise permitted by these administrative procedures or unless otherwise authorized by the assigned judge.
2. **The Clerk’s Office will not maintain a paper court file in any civil or criminal case commenced after February 9, 2004,** except as otherwise provided herein. The case file in actions commenced prior to February 9, 2004, will contain paper files of those documents filed prior to February 9, 2004, and electronic files of those documents filed on or after February 9, 2004.
3. **The official court record in CM/ECF cases will be the electronic file** maintained in the court’s servers together with any paper attachments and exhibits filed in accordance with these procedures.
4. All members of the bar of this court may request user login identifications and passwords from the Clerk’s Office and may begin submitting documents electronically beginning March 15, 2004.
5. **All attorneys appearing before this court on or after December 13, 2004, will be required to submit all documents electronically,** unless otherwise authorized by these procedures. (During the transition period February 9, 2004, to December 13, 2004, all conventionally submitted documents presented to the court, which would otherwise be required to be submitted electronically, will be uploaded into the system by Clerk’s Office staff).

²When scanning documents to be subsequently filed electronically, filing parties should make certain their scanners are configured for 200 dpi and black and white rather than color scanning. The filing party is responsible for the legibility of the scanned document. If for any reason a document cannot be easily read after scanning, the filing party should not electronically file the document. Instead, the filing party must conventionally file it with the Clerk’s Office.

Because large documents may not upload properly to the System or downloaded within a reasonable amount of time for users with a 56K modem, documents over two megabytes will be rejected by the System and must be filed in segments of less than two megabytes or filed conventionally.

As used in these administrative procedures, a “conventionally” filed or submitted document or pleading is one presented to the court or a party in paper or other non-electronic, tangible format.

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6. Notwithstanding the requirement contained in paragraph A.5. above, an attorney may upon showing of good cause be permitted by the assigned judge to submit documents conventionally after December 13, 2004. Even if the assigned judge initially grants an attorney permission to submit documents conventionally, however, the assigned judge may withdraw that permission at any time during the pendency of a case and require the attorney to submit documents electronically using the court's CM/ECF system.
 7. The Clerk's Office may discard any paper document after it has been uploaded to the CM/ECF system.
 8. All documents filed by electronic means must comply with technical standards, if any, established by the Judicial Conference of the United States or by this Court.
 9. The Clerk's Office or any judge of this court may deviate from these procedures in specific cases, without prior notice, if deemed appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of matters pending before the court.
 10. The court may also amend these procedures at any time without prior notice.

C. **REGISTRATION**

1. Each attorney admitted to practice in the Western District of Virginia who is in good standing, including an attorney admitted *pro hac vice*, will be entitled to one CM/ECF system login identification and password from the District Court. The login and password permit the attorney to participate in the electronic retrieval and submission of pleadings and other papers.
2. Each attorney must complete and sign an Attorney Registration Form, a copy of which is on the court's web site at <http://www.vawd.uscourts.gov>, and attached to these procedures as Form A.
3. All signed original Attorney Registration Forms must be mailed to the United States District Court, Office of the Clerk, 210 Franklin Road, S.W., Room 308, P.O. Box 1234, Roanoke, Virginia 24006-1234, or delivered to any divisional Clerk's Office.
4. To ensure that the Clerk's Office has correctly entered a registering attorney's Internet e-mail address in the System, the Clerk's Office will send the attorney an Internet e-mail message after assigning the attorney a password. Upon receipt of a confirming reply from

the attorney, the Clerk's Office will then e-mail login identification and password information to the attorney.

5. Non-incarcerated parties to a civil action who are proceeding pro se may be issued user login identifications and passwords and will be permitted to submit documents or pleadings electronically only with the approval of the judge assigned to their case. Once authorized by the court, pro se users will register in the same manner as provided in these procedures for an attorney. User login identifications and passwords of pro se users will be deactivated at the conclusion of their case or upon entry of an appearance by an attorney on their behalf.
6. Unrepresented incarcerated parties will not be permitted to submit documents or pleadings electronically.
7. A filing user may withdraw from participating in the CM/ECF system by providing the Clerk's Office with notice of withdrawal. Such notice must be in writing, and mailed to: United States District Court, Office of the Clerk, 210 Franklin Road, S.W., Room 308, P.O. Box 1234, Roanoke, Virginia 24006-1234, or delivered to any divisional Clerk's Office. Upon receipt, the Clerk's Office will immediately cancel the user's password and delete the user's name from any applicable electronic service list. A filing user's withdrawal from participation in the CM/ECF system may not be construed as authorization to submit cases or documents conventionally.
8. If a filing user believes that the security of an existing password has been compromised and that a threat to the CM/ECF system exists, the filing user must change his or her password immediately. In addition, filing users may change their passwords as they deemed appropriate.
9. A filing user whose e-mail address, mailing address, telephone or fax number has changed from that of the original registration form must immediately file a notice of a change of address and serve a copy of the notice on all other parties in pending litigation with the filing user.
10. No attorney will knowingly permit or cause to permit his or her login identification and password to be utilized by anyone other than an authorized employee of his or her office. Pro se users will not allow another person to submit a document using their login and password.
11. Each registered attorneys is responsible for all filings submitted with his or her login identification and password.

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12. Registration constitutes the user's consent to service of all documents by electronic means as provided in these procedures.

D. ELECTRONIC FILING OF DOCUMENTS

1. *General Procedures*

- a. The electronic transmission of a document to the court's CM/ECF system, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and constitutes entry of the document on the docket maintained by the Clerk pursuant to Fed.R.Civ.P. 58, Fed.R.Civ.P. 79 and Fed.R.Crim.P. 55.
- b. A document submitted electronically will be deemed filed at the time and date stated on the Notice of Electronic Filing received from the court's CM/ECF system.
- c. All pleadings submitted electronically will be titled in accordance with the approved dictionary of civil or criminal events contained on the CM/ECF system of this Court.
- d. E-mailing or faxing a document to the Clerk's Office or to the assigned judge will not constitute "electronic submission" of the document for filing.
- e. The party electronically submitting a pleading or other document will be responsible for designating a **docket entry title** for the document by using one of the docket event categories prescribed by the court.³

2. *Criminal Cases*

- a. All charging documents (including the complaint, information, and indictment), motions, applications, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, or other documents in a criminal case which constitute the case file will be maintained electronically on the CM/ECF system except as otherwise provided by these administrative procedures.

³ Readers may view the "CM/ECF Menu for Attorneys" on the court's web site, <http://www.vawd.uscourts.gov>

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- b. Other types of information, including non-filed discovery material, trial exhibits that have not been admitted into evidence, drafts or notes by judges or court staff, and other documents which have been traditionally retained on the “left side” of the case file, may be maintained electronically or in paper, but will not be accessible remotely via the Internet. This material will, however, remain accessible at the Clerk’s Office.

3. *Civil Cases*

All motions, pleadings, applications, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, or other documents in a civil case must be electronically filed on the CM/ECF system unless otherwise provided by these administrative procedures.

a. Case Opening Documents

- i. The Clerk’s Office will accept complaints, petitions, or notice of removal, together with summons and civil cover sheets sent by United States mail, similar means, or delivered in person to the Clerk’s Office.
- ii. The proper filing fee must accompany case opening documents sent through the United States mail or personally delivered to the Clerk’s Office. The Clerk’s Office will scan the case opening document and cover sheet, upload them to the CM/ECF system, then discard the paper documents.
- iii. The Clerk’s Office will also accept case opening documents submitted electronically on the CM/ECF system in .pdf format from those attorneys who have current credit card authorizations on file with the Clerk’s Office for payment of the appropriate filing fees.
- iv. Attorneys submitting civil case opening documents electronically must use the following case numbers:

| | |
|---------------------------------|-------------|
| Abingdon Division cases: | 1:04at99999 |
| Big Stone Gap Division cases: | 2:04at99999 |
| Charlottesville Division cases: | 3:04at99999 |
| Danville Division cases: | 4:04at99999 |
| Harrisonburg Division cases: | 5:04at99999 |
| Lynchburg Division cases: | 6:04at99999 |
| Roanoke Division cases: | 7:04at99999 |

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- v. New cases are deemed filed the day the Clerk's Office receives the complaint and any required filing fee. Upon verification that the proper fee has been paid, the Clerk's Office will assign a unique case number and file the opening documents in the CM/ECF system. The submitting party will then receive a Notice of Electronic filing confirming the case has been accepted.
 - vi. Only case opening documents may be submitted using the case numbers listed in subsection D.3.a.iv. If an attorney submits other pleadings using these case numbers, the Clerk's Office will call the attorney and explain that the pleading must be electronically submitted to the proper case number.
- b. Summons
- i. The Clerk's Office also will receive by mail or other means, summons to be issued.
 - ii. The party requesting the summons must complete the top portion of the summons form and, if sending the summons by United States mail, also submit a stamped, self-addressed return envelope. Once a summons has been issued, the Clerk's Office will scan it, upload it to the System, then return original paper summons with court seal affixed to the attorney or requesting party.
- c. Pro Se Litigation.
- i. Unless authorized to file electronically by the judge assigned as provided in these procedures, pro se filers will file paper originals of all complaints, pleadings, motions, affidavits, briefs, and other documents which must be signed or which require either verification or an unsworn declaration under any rule or statute.
 - ii. The Clerk's Office will scan these original documents into an electronic file in the CM/ECF system.

d. Social Security Cases.

Social Security review case files will be **remotely** accessible via the Internet only by the attorneys of record in each case. They will continue to be accessible by the public, however, at the Clerk's Office.

- i. Absent a showing of good cause, all documents, notices, and orders in Social Security reviews filed in the District Court after the CM/ECF system is implemented will be filed and noticed electronically, except as noted below.
- ii. The complaint and other documents typically submitted at the time a social security case is filed initially will be filed electronically and served according to section E. of these procedures.
- iii. Social security transcripts will be conventionally filed and served since scanning that set of documents and filing or retrieving them electronically is impractical at this time. Because Social Security transcripts will not be scanned or otherwise placed into the System, the Clerk's Office will docket a text-only event stating that the transcript is available in paper format at the Clerk's Office.
- iv. All other documents in the case, including briefs, will be submitted, filed and served electronically unless the court orders otherwise.

E. **SERVICE OF ELECTRONICALLY FILED DOCUMENTS**

1. **A party may not electronically serve a complaint**, but instead must effect service according to Federal Rule of Civil Procedure 4.
2. Whenever a pleading or other paper is filed electronically, the CM/ECF system will generate a "Notice of Electronic Filing" to the filing party, any other party who is a registered user and has requested electronic notice in that case,⁴ and the assigned judge if he or she has elected to receive notice.

⁴To determine whether another party is a registered user, the filer can select the System's "Utilities" category, and then click on "Mailing Information for a Case" on the pull-down menu. The filer then enters the case number and the System information will appear, stating whether or not the filer must mail a copy or if the System will electronically generate one.

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3. If the recipient is a registered participant in the CM/ECF system, the e-mailing of the “Notice of Electronic Filing” will be the equivalent of service of the pleading or other paper by first class mail, postage prepaid.
 4. A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate must state the manner in which service or notice was accomplished on each party entitled to service or notice. Sample language for a certificate of service is attached to these procedures as Form B.
 5. A party who is not a registered participant in the CM/ECF system is entitled to a paper copy of any electronically filed pleading, document, or order. The filing party must, therefore, provide the non-registered party with the pleading, document, or order according to the Federal Rules of Criminal or Civil Procedure.
 6. When mailing paper copies of documents that have been electronically filed, the filing party may include the “Notice of Electronic Filing” to provide the recipient with proof of the filing.
 7. The three-day rule of Federal Rule of Criminal Procedure 45 and Federal Rule of Civil Procedure 6(e) for service by mail also applies to service by electronic means.⁵
 8. A filer who elects to bring a document to the Clerk’s Office for scanning and uploading to the System must serve conventional copies on all non-registered parties to the case and should expect some delay in the uploading and subsequent electronic noticing of the document. If time is an issue, filers should consider paper service or service by an additional means on registered parties, such as e-mail or fax.

F. DEADLINES

Submitting documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be completed before midnight Eastern Time, in order to be considered timely filed that day. However, if the time of day is of the essence, the assigned judge will order that document filed by a time certain.

⁵ Attorneys should be aware that the response due date, which appears when either electronically filing a motion or querying deadlines, is for court use only and should not be relied upon as an accurate computation of the response date.

G. SPECIAL FILING REQUIREMENTS AND EXCEPTIONS

1. The following documents **must be filed only on paper** in the conventional manner:
 - a. Motions to file documents under seal and documents filed under seal;
 - b. Administrative records in Social Security cases and in other administrative review proceedings;
 - c. The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings; and
 - d. Ex parte motions and applications.
2. The following documents **must be filed** on paper. They **may then be scanned into the CM/ECF** system by the Clerk's Office:
 - a. The state court record filed in 28 U.S.C. §1446 removal proceedings;
 - b. All handwritten pleadings;
 - c. All pleadings and documents filed by pro se litigants who are incarcerated or who are not registered filing users in the CM/ECF system as provided in these procedures;
 - d. The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal data sheet;
 - e. Affidavits for search and arrest warrants and related papers;
 - f. Fed.R.Crim.P. 20 and Fed.R.Crim.P. 40 papers received from another court;
 - g. Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement;
 - h. Documents in criminal cases which require the signature of a non-attorney, such as a grand jury foreperson, a third-party custodian, a United States Marshal, an officer from Pretrial Services or Probation, or some other federal officer or agent; and
 - i. Petitions for violations of supervised release.
3. The following documents **may be scanned by the parties** and submitted using the CM/ECF system, **or submitted on paper**:
 - a. Rule 4 executed service of process documents; and
 - b. Attachments to filings (See subsection F. 5. below).
4. If the filing of a document requires leave of the court, such as an amended complaint or a motion to submit a reply brief, the attorney will attach the proposed document as an exhibit to the motion according to the procedures in section H. below. If the court grants

the motion, the order will require the attorney to submit the document electronically for filing in the case.

5. **Attachments and exhibits larger than two megabytes** may be filed electronically in separate two-megabyte segments or may be submitted, bound, in conventional format. All bound documents submitted to the Clerk's Office should be two or three-hole punched. The filing party must serve conventional copies on all other parties to the case.

H. **ATTACHMENTS TO FILINGS AND EXHIBITS (other than hearing and trial exhibits)**

1. Attachments to filings and exhibits must be filed in accordance with the Court's CM/ECF User Manual, unless otherwise ordered by the Court.
2. A filing user must submit as attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document, as may be allowed by the court. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.
3. Filers will not attach as an exhibit any pleading or other paper already on file with the court in that case, but will merely refer to that document.

I. **TRANSCRIPTS**

In September 2003, the Judicial Conference of the United States adopted a policy addressing the Electronic Availability of Transcripts of Court Proceedings; however, the Conference delayed the effective date of this policy until it has reviewed a report from the Judicial Resources Committee about the impact the policy will have on court reporters' income. Once in effect, the policy will require all courts that are making electronic documents available to the public to make electronic transcripts of proceedings, with any personal identifiers partially redacted, available to the public as well, when such transcripts are otherwise prepared. The policy further specifies that attorneys and parties are required to notify the court if personal data identifiers should be redacted from the transcript before it is made electronically available, and the electronic availability only will occur after the redaction has been effected by the court reporter or transcriber at the express direction of the attorney or party. When such policy is implemented, transcripts will be made available via remote access in accordance with those standards. Until such time, transcripts of proceedings which are required to be filed will be maintained in paper format and available for viewing in the clerk's office.

J. SIGNATURES

1. Non-Attorney Signature.

- a. If the original document requires the signature of a non-attorney, the submitting party or the Clerk's Office will scan the original document, electronically file it on the CM/ECF system, then discard the original document.
- b. The electronically filed document as it is maintained on the court's servers will constitute the official version of that record. The court will not maintain a paper copy of the original document except as otherwise provided in these administrative procedures, or as otherwise required by law.
- c. A non-filing signatory or party who disputes the authenticity of an electronically filed document with a non-attorney signature or the authenticity of the signature on that document must file an objection to the document within ten days of receiving the Notice of Electronic Filing.

2. Attorney Signature.

- a. A pleading or other document requiring an attorney's signature must be signed in the following manner, when submitted electronically to the CM/ECF system: "s/ (**attorney name**) ." The correct format for an attorney signature is as follows:

s/ Judith Attorney
Virginia Bar Number: 12345
Attorney for (Plaintiff/Defendant)
ABC Law Firm
123 South Street
Roanoke, Virginia 24001
Telephone: (540) 123-4567
Fax: (540)123-7890
E-mail: judith.attorney@law.com

- b. Any party challenging the authenticity of an electronically filed document or the attorney's signature on that document must file an objection to the document within ten days of receiving the Notice of Electronic Filing.

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3. **Multiple Attorney Signatures.** The following procedure applies when a stipulation or other document requiring two or more attorney signatures is submitted electronically:
- a. The filing party or attorney must initially confirm that the content of the document is acceptable to all attorneys required to sign the document and must obtain the signatures of all attorneys on the document. For purposes of this rule, physical, facsimile, or electronic signatures are permitted.
 - b. The filing party or attorney then must submit the document electronically to the CM/ECF system, indicating the signatories, e.g., “s/ Jane Doe,” “s/ John Smith,” etc.
 - c. The correct format for a signature is as follows:

s/ Judith Attorney
State Bar Number: 12345
Attorney for (Plaintiff/Defendant)
ABC Law Firm
123 South Street
Roanoke, VA 24001
Telephone: (540) 123-4567
Fax: (540)123-7890
E-mail: judith.attorney@law.com
 - d. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures or the authenticity of the signatures themselves must file an objection to the document within ten days of receiving the Notice of Electronic Filing.

K. ORDERS AND JUDGMENTS

1. The assigned judge, chambers staff, or the Clerk’s Office will electronically file all signed orders.
2. Any order signed electronically has the same force and effect as if the judge had affixed the judge’s signature to a paper copy of the order and it had been entered on the docket conventionally.
3. Proposed orders may be submitted as outlined below:

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- a. A moving party may submit to the judge, after filing a motion for which no supporting brief is required, a proposed order granting the motion and setting forth the requested relief.
 - b. The proposed order should be attached to an Internet e-mail sent to the e-mail address of the assigned judge. The judges' e-mail addresses for this purpose only are as follows:

| | |
|----------------------------|--|
| Judge Wilson: | Wilson.ecf@vawd.uscourts.gov |
| Judge Jones: | James_Jones@vawd.uscourts.gov |
| Judge Moon: | Moon.ecf@vawd.uscourts.gov |
| Judge Conrad: | Conrad.ecf@vawd.uscourts.gov |
| Judge Turk: | Turk.ecf@vawd.uscourts.gov |
| Judge Williams: | Libby_Stokes@vawd.uscourts.gov |
| Judge Michael: | Michael.ecf@vawd.uscourts.gov |
| Judge Kiser: | Kiser.ecf@vawd.uscourts.gov |
| Magistrate Judge Crigler: | Crigler.ecf@vawd.uscourts.gov |
| Magistrate Judge Sargent: | Pamela_Sargent@vawd.uscourts.gov and Robin_Bordwine@vawd.uscourts.gov |
| Magistrate Judge Urbanski: | Urbanski.ecf@vawd.uscourts.gov |

- c. All proposed orders must be submitted in a format compatible with WordPerfect, which is a "Save As" option in most word processing software. Judges will not accept proposed orders in .pdf format.
 - d. Electronically submitted proposed orders may not be combined with the motion into one document. The motion must be docketed prior to submitting the proposed order to the judge, and the proposed order must refer to the resulting docket entry number for the motion.
 - e. A filing party moving for issuance of a writ, warrant, or summons should apprise the judge that a prompt ruling is sought, and attach the writ, warrant, or summons in .pdf format to the proposed order (if one is needed).
4. If a judge enters an order during a hearing, copies of the order will be distributed electronically after the hearing.

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5. When mailing paper copies of an electronically filed order to a party who is not a registered participant of the System, the Clerk's Office will include the "Notice of Electronic Filing" to provide the non-participant with proof of the filing.
 6. The assigned judge may grant routine orders by a text-only entry upon the docket. In such cases, no .pdf document will issue; the text-only entry will constitute the court's only order on the matter. The System will generate a "Notice of Electronic Filing" as described in section E. 2. of these procedures.

L. **PRIVACY.**

1. Redacted Documents.
 - a. To comply with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, Pub. L. No. 107-347, **filing parties must omit** or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, *filed with the court*⁶, **whether electronically or on paper.**

Minors' names: Use the minors' initials;
Financial account numbers: Identify the name or type of account and the financial institution where maintained, but use only the last four numbers of the account number;
Social Security numbers: Use only the last four digits;
Dates of birth: Use only the year; and
Other data as permitted by order of the court.
 - b. In addition, the **filing party should omit** or, where inclusion is necessary, partially redact the following confidential information from all pleadings, documents, and exhibits, **whether filed electronically or on paper**, unless the assigned judge orders otherwise:

⁶ The requirement to exclude or partially redact personal identifier data from public records does not preclude the parties from serving unredacted copies of pleadings and other documents on other parties in a case. For example, in Social Security review cases, the claimants must provide a complete Social Security number to properly identify themselves to the Social Security Administration. All documents filed with the court, however, must be partially redacted for inclusion in the public record.

Personal identifying number, such as driver's license number;
Medical records, treatment and diagnosis;
Employment history;
Individual financial information; and
Proprietary or trade secret information.

2. Unredacted Documents.

- a. Pursuant to the E-Government Act of 2002, a party may file under seal a document containing the unredacted personal data identifiers listed above.
- b. The filing party will submit the unredacted paper document to the Clerk's Office. The paper document must have a cover page or notation on the first page stating the following: "Document filed under seal pursuant to the E-Government Act." The court will retain this paper document as part of the record.
- c. The assigned judge may require the party to also submit a redacted copy for the public record.

3. **The responsibility for redacting personal data identifiers rests solely with counsel and the parties.** The Clerk's Office will not review documents for compliance with this rule, seal on its own motion documents containing personal data identifiers, or redact documents, whether submitted electronically or on paper.

M. **DOCUMENTS TO BE FILED UNDER SEAL.**

A motion or application to file documents under seal will be presented to the Clerk's Office in conventional format, along with a proposed order, for presentation to the chambers of the assigned magistrate or district judge. If the motion or application is granted, the assigned judge will enter electronically the order authorizing the filing of the documents under seal. The Clerk's Office will then file and retain the documents under seal in the conventional manner.

N. **EXHIBITS.**

1. Evidence Not in Support of a Motion. This section applies to exhibits other than those submitted in support of a motion, e.g., an attachment to a complaint. Exhibits submitted in support of a motion are governed by section N. 2. of these procedures.

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- a. A party may conventionally submit exhibits which are not available in electronic form or which are too lengthy to electronically image, i.e., “scan.” Lengthy documents submitted to the Clerk’s Office in paper form should be bound with two or three-hole punches. The Clerk’s Office will note on the docket its receipt of the document(s) or exhibit(s) with a text-only entry.
 - b. If possible, however, a filing party should electronically image, i.e., “scan,” a paper exhibit that is less than two megabytes and submit the exhibit as a .pdf file. Because .pdf files containing scanned documents take up considerably more space on the CM/ECF system than .pdf files containing electronically generated documents, filing parties may submit .pdf files containing scanned documents of more than two megabytes only if they are filed in separate two megabyte segments.
 - c. Because documents scanned in color or containing a graphic take much longer to upload, filing parties must configure their scanners to scan documents at 200 dpi and in black and white rather than in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the CM/ECF system.
 - d. The filing party is required to verify the readability of scanned documents before submitting them electronically with the court.
 - e. Exhibits submitted conventionally must be served on other parties as if not subject to these procedures.
2. Evidence in Support of a Motion. In general, evidence in support of a motion should be submitted electronically rather than in a conventional manner.
- a. A filing party should electronically image, i.e., “scan,” a paper exhibit that is less than two megabytes and submit the exhibit as a .pdf file. Because .pdf files containing scanned documents take up considerably more space on the CM/ECF system than .pdf files containing electronically generated documents, filing parties may submit .pdf files containing scanned documents of more than two megabytes only if they are filed in separate two-megabyte segments.
 - b. Because documents scanned in color or containing a graphic take much longer to upload, filing parties must configure their scanners to scan documents at 200 dpi and in black and white rather than in color. Documents appearing in color in their

original form, such as color photographs, may be scanned in color and then uploaded to the CM/ECF system.

- c. The filing party is required to verify the readability of scanned documents before submitting them electronically with the court.
- d. A party submitting evidentiary materials in conventional format also must submit electronically an index listing each item of evidence then being filed and identifying the motion to which it relates.
- e. Copies of conventionally filed supporting materials must be served on other parties as if not subject to electronic filing procedures.

O. PUBLIC ACCESS

1. Public Access at the Court.

Electronic access to the docket and unsealed documents filed in the CM/ECF system is available for viewing by the public at no charge at the Clerk's Office during regular business hours. A fee is required in accordance with 28 U.S.C. § 1930, however, for any copies of documents requested from the Clerk's Office.

2. Internet Access.

- a. Public remote electronic access to the CM/ECF system for viewing purposes is limited to subscribers to the Public Access to Court Electronic Records ("PACER") system. The Judicial Conference of the United States requires a user fee be charged for remotely accessing certain detailed case information via the PACER system, but excluding review of calendars and similar general information.⁷

⁷According to a memorandum from the Administrative Office of the United States Courts dated April 9, 2002, non-judiciary CM/ECF users will be charged a fee of seven cents per page starting on July 1, 2002, to access electronic data such as docket sheets and case documents obtained remotely through the PACER system. A cap of thirty pages per document has been approved.

The access fee does not apply to official recipients of electronic documents, i.e., parties legally required to receive service or to whom service is directed by the filer in the context of service under Federal Rules of Civil Procedure. Official recipients will receive the initial electronic copy of a document free to download as they see fit, but if they remotely access the document again, they will be charged seven cents a page.

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- b. To address the privacy issues inherent in a Social Security review, Internet access to the individual documents will be limited to counsel and court staff. Docket sheets, however, will be available over the Internet to non-parties. Non-parties will continue to have direct access to the case file at the Clerk's Office.
 - c. Only an attorney of record and court staff may remotely view records in criminal cases. Public remote access will be limited to viewing docket sheets only.⁸
 - d. An exception to the prohibition on public remote access to criminal case filings is possible in a high-profile criminal case where the demand for documents will impose extraordinary demands on the court's resources. The district court is authorized to provide Internet access to the documents filed in that case if all parties consent and the trial judge finds that such access is warranted.

P. CONVENTIONAL COPIES AND CERTIFIED COPIES.

Conventional copies and certified copies of electronically filed documents may be purchased at the Clerk's Office. The fee for copying and certifying will be in accordance with 28 U.S.C. § 1914.

Q. RETENTION

- 1. The Clerk's Office will not maintain a paper court file in any case begun after the effective date of these procedures except as otherwise provided in these procedures. The official court record will be the electronic file maintained on the court's servers. The official record will include, however, any conventional documents or exhibits filed in accordance with these procedures.
- 2. The Clerk's Office will return all original indictments, petitions to enter plea of guilty and plea agreements after they are scanned and uploaded to the CM/ECF system to the United States Attorney's Office for retention until two years following all appeals periods have passed.

⁸ In September 2003, the Judicial Conference of the United States approved a policy which will permit remote electronic access to criminal case files by non-parties to the same extent as if accessed at the courthouse. The guidance on implementation and operation of this new policy is being developed and when issued, criminal case files will be made available via remote access in accordance with those standards.

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3. The Clerk's Office will discard all other original documents brought to the Clerk's Office for filing after they are scanned and uploaded to the CM/ECF system.⁹
 4. An attorney who wishes to have an original document returned after the Clerk's Office scans and uploads it to the System may, prior to submitting the document to the Clerk's Office, seek authorization from the assigned judge for the document's return. Authorization will be granted on a case-by-case basis. No standing authorizations for the return of all original documents filed by an attorney or office will be allowed.

R. FEES PAYABLE TO THE CLERK.

Any fee required for filing a pleading or paper in District Court is payable to the Clerk of the Court by credit card, check, money order, or cash. The Clerk's Office will document the receipt of fees on the docket with a text-only entry. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

S. CORRECTING DOCKET ENTRIES.

1. Once a document is submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk's Office. The CM/ECF system will not permit the filing party to make changes to the document(s) or docket entry filed in error once the transaction has been accepted.
2. A document incorrectly filed in a case may be the result of posting the wrong .pdf file to a docket entry, or selecting the wrong document type from the menu, or entering the wrong case number and not catching the error before the transaction is completed. The **filing party should not attempt to refile the document.**
3. As soon as possible after an error is discovered, the filing party should contact the Clerk's Office with the case number and document number for which the correction is being requested. If appropriate, the court will make an entry indicating that the document was filed in error. The filing party will be advised if the document needs to be refiled.

⁹If an attorney believes an original document or a document with original signatures has some intrinsic value, the attorney is encouraged to retain the original document and submit to the Clerk's Office a copy of the document with faxed or photocopied signatures for scanning and uploading.

T. TECHNICAL FAILURES.

1. The Clerk's Office will deem the Western District of Virginia CM/ECF site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day. Known systems outages will be posted on the web site, if possible.
2. Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under these procedures nor excuse an untimely filing.
3. A filer who cannot file a document electronically because of a problem on the filer's end must file the document conventionally or contact the Clerk's Office for permission to file the document provisionally via fax. If the filer provisionally files a document, the filer then must conventionally or electronically file the document within forty-eight hours after faxing it.
4. A filing party whose filing is made untimely as the result of a technical failure of the court's CM/ECF's site may seek appropriate relief from the court.



U. S. DISTRICT COURT
Western District of Virginia
Electronic Case Filing Registration

Court Use Only:

Login: _____

Password: _____

This form shall be used to register as a Filing User for the court's Electronic Case File (ECF) system. A Filing User will have privileges to submit documents with the court through the court's ECF web site, view and retrieve docket sheets and case documents electronically, and receive electronic notice of documents filed in the ECF system. By signing this form, you certify that you have completed an approved ECF training program or the ECF tutorial on the court's web site (www.vawd.uscourts.gov), and have a Public Access to Court Electronic Records (PACER) account. Visit the PACER web site at <http://pacer.psc.uscourts.gov> to establish a PACER account.

Please complete the following required information to register for ECF: (Please type or print neatly)

Last Name: _____ First Name: _____ Middle Name: _____

Firm Name: _____

Address: _____

City, State: _____ Zip Code: _____

Telephone Number: (____) _____ Fax Number: (____) _____

Internet E-Mail Address: _____

State Bar Information: State: _____ ID Number: _____

Last Four Digits of Social Security Number: _____ (for security purposes).

Attorneys seeking to file documents electronically must be admitted to practice in the United States District Court for the Western District of Virginia and must be in good standing, or permitted by statute or admitted *pro hac vice* in a particular case, to file papers electronically.

Date admitted to practice in this Court: _____

If United States Department of Justice Attorney appearing pursuant to 28 U.S.C. § 517 check here: _____

If admitted *pro hac vice*: Date motion for *pro hac vice* granted: _____ in case number: _____

By signing this registration form, the undersigned agrees to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system. The undersigned further certifies that he/she has read and understands the Court's Standing Order on "Redaction of Personal Data Identifiers from All Pleadings" entered on January 5, 2004, and acknowledges his/her responsibility for redacting these personal identifiers. The undersigned also consents to receiving notice of filings pursuant to Fed.R.Civ.P. 5(b) and 77(d) and Fed.R.Crim.P. 49(b) and (c) via the Court's electronic filing system only. The combination of user identification and password shall constitute the signature of the attorney filing the documents for purposes of Fed.R.Civ.P. 11. Attorneys must protect the security of their passwords. It is the duty and responsibility of the attorney to immediately notify the court if they learn that their password has been compromised. Electronic filing is only permitted in cases approved by the Court.

 Signature of Registrant

 Date

YOUR LOGIN AND PASSWORD WILL BE E-MAILED TO YOUR INTERNET E-MAIL ADDRESS ABOVE.
 Return this form **via hand delivery or U.S. mail** to:
 Clerk, U.S. District Court Electronic Filing Registration
 P.O. Box 1234
 Roanoke, VA 24006-1234

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

SAMPLE FORMATS - CERTIFICATE OF SERVICE

Sample A

I hereby certify that on ____ (Date) ____, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

_____, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: _____

_____.

s/ _____

Attorney's Name and Bar Number

Attorney for (Plaintiff/Defendant)

Law Firm Name

Law Firm Address

Law Firm Phone Number

Law Firm Fax Number

Attorney's E-mail Address

Sample B

I hereby certify that on ____ (Date) ____, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following:

_____, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: _____

_____.

s/ _____

Attorney's Name and Bar Number

Attorney for (Plaintiff/Defendant)

Law Firm Name

Law Firm Address

Law Firm Phone Number

Law Firm Fax Number

Attorney's E-mail Address